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SUMMARY OF MEETING

**COMMITTEE ON LEGAL SERVICES – Subcommittee on the OLLS
Executive Director Search**

August 3, 2017

The Committee on Legal Services – Subcommittee on the OLLS Executive Director Search met on Thursday, August 3, 2017, at 10:03 a.m. in SCR 352. The following members were present:

Senator Gardner, Acting Chair
Senator Kagan
Representative Herod
Representative Wist

Senator Gardner called the meeting to order.

10:04 a.m. – Debbie Haskins, Assistant Director, Office of Legislative Legal Services, addressed agenda item 1 – Updates on OLLS Director Search Process and Timeline.

Ms. Haskins said I wanted to review very briefly for the Subcommittee the timeline for the director search process. You are meeting today and then the full Committee on Legal Services will meet on August 25 to do interviews. The Committee could make a decision on who to recommend to the Executive Committee for appointment as the OLLS director at that meeting. However, if a second Committee meeting is required that is scheduled for September 7. The Executive Committee has scheduled a meeting for September 18 to discuss the Committee's recommendation on who to appoint for the OLLS director.

Senator Kagan said do we anticipate that the Executive Committee will make their decision or just discuss it at that point or do we not know? Ms. Haskins said my understanding is that they want to make a decision on that day.

10:06 a.m. – Bart Miller, former Assistant Director, Office of Legislative Legal Services, addressed agenda item 2 – Discussion about the Office of Legislative Legal Services.

Mr. Miller said I used to be with the Office of Legislative Legal Services. I retired this past December 2016 after 32 years with the Office. I have a sizable amount of experience, some would say too much, with the Office. I brought one of my old statute books along mainly just because it shows how our Office is divided up into various teams when we draft bills, which you are all probably aware of how that works. I wrote down four or five different things that I think embody the culture of the Office and how it operates in my experience. The first one is service, the second one is nonpartisanship, the third one is confidentiality, the fourth one is expertise, and then the last one is innovation. In terms of service you know that the word itself is related to what would be, servant, I guess. Basically, if you want to work for or in the Office you've got to be willing to be of service to the legislative institution. That's the bottom line. Interestingly enough, we're serving all 100 of you, not certain ones. I know people have different views on that just based on how the legislative process plays out every session, but the reality is we're serving all 100 of you. When I started with the Office that was drilled into my mind. If I was doing one thing and another member called me it didn't matter what party they were in or what they wanted me to do, my job would be to do it and try to get it done. Ultimately the way I always viewed my work for the Office is that I was really working directly for the legislature, but I was really kind of serving all of the residents of Colorado because that's who is paying taxes and funding the Office. As an employee of the Office the main quality that you have to have is dedication and you have to be dedicated to the legislative institution, which is hard. In my 32 years there we had some people who didn't work there very long because they started working and decided that they really didn't want to do it and for some people it doesn't work. Fortunately for me it did. I really enjoyed the time I spent with the Office. I'm in the private practice of law now. I'm with a private firm now, it's Collins, Cockrel, and Cole, and I represent local governments so I've been able to do something related to what I was doing when I was here. I've got to say when I first started my new job I said to myself that you've got to be prepared to throw out everything you learned before in the past 30 some odd years because these people are just different. Now that I've been doing this for six or seven months I figured out these people are very similar and what I am doing is very similar including the ethics behind it and everything else. Dedication is a key thing.

Something else that we really stressed with the Office was professionalism. We are nonpartisan, professional legislative staff and we know we need to conduct ourselves that way at all times and that is a very big deal. In terms of nonpartisanship, I know in today's political environment it's been a hard concept for me to explain to other people for the entire time I worked for the Office. It must be somewhat more difficult now, but it's one of the key concepts of being an employee or the director of the Office. As I said before, you work for all 100 members. There is no advocacy regardless of what your personal opinions are of any given thing. Those personal opinions are really irrelevant in what you're doing. And quite frankly people who know me know that I do have personal opinions despite the fact that I worked for the Office for 32 years. You can't avoid that because that's human, but the reality is our job is to put together the materials that you all need to make the policy decisions that you're making. I explained this to people when I worked in the Office and I don't know if this analogy is going to work here but I'll give it a try. Essentially the members are the process, you are the legislative process, what we're doing behind the scenes is giving you the props that you need to make that process work. You're creating the laws, the stuff that goes in the red books, and the job of our Office is to create that for you and to make it so you can argue for the policy positions that you want to argue for, regardless of which side you're arguing on. When I was with the Office I would routinely draft bills that were extremely complicated and I would end up drafting amendments that would be designed to not make that bill the most optimal piece of policy that could pass and that's just the way it works because we have a nonpartisan staff environment that assists all of you. If you want to work in the Office you can't want to be an advocate and you can't lobby. There's actually a statute that relates directly to our Office that says that, no advocacy and no lobbying. That's really what it's all about.

One of the tools that makes it possible for us to do all of this is the concept of confidentiality and I know during my time with the Office I had several members who were also lawyers who told me quite frequently that they really didn't think that people drafting legislation were practicing law. I never really cared much one way or the other whether they thought we were or not, but the reality is I've come to believe that the Office does practice law. It's much different from being an attorney for a private client because as an attorney in the Office you have the privilege of representing the only client in the state that actually gets to make and change the law because that's the power of the legislature and that's a very unique role to be in. We have attorney-client privilege because we're lawyers and we have to follow the rules of professional responsibility and all of that, but we also have a statutory rule of confidentiality that was on the books for the entire time I worked in the Office and it's still on the books now in section 2-3-505, C.R.S. That section, in pretty elaborate detail, talks about the fact that you guys can come into our Office, call us on the phone, email us, or whatever you want to do to give

us information on something you want us to do either for legislation, an amendment to a bill, or general research and we are not allowed to divulge that information to other people unless you tell us it's okay to do that or you want us to do that for some reason. I think that's really a linchpin of how the Office operates and I think it's a very important concept for whoever is going to be the director of the Office to understand. I don't want to say the entire process falls apart if that gets broken, but it does get very awkward. I remember many years ago, probably back in the 1980s because I started with the Office in 1985, we had an attorney in the Office for whom, for whatever reason, some of these basic concepts that I'm talking about were not resonating and at some point during the session he started writing press releases on legislation that was going through the process without anyone realizing he was doing that and it did create some problems toward the end of the process because the members started realizing what was going on. And that's just an aspect of this whole concept of confidentiality and nonpartisanship and all of this that people who work in the Office are constantly aware of and it's very important.

Expertise is another key concept of our Office. There's kind of a general expertise and then there's a specific subject matter expertise that our Office stresses with people. We all have to become experts in the legislative process which is not something they teach you a whole lot about in law school. It's more like high school civics on steroids. You have to figure out how it really gets done. You have to know the constitutionality requirements, the statutory requirements, and then the rules of the House of Representatives and the Senate that have evolved since 1876 and that's a big deal. Most of the attorneys in our Office become experts in that and if you don't it becomes a real handicap for your ability to know how to do things. When I first started with the Office subject matter expertise was a questionable thing. It wasn't really stressed which was kind of interesting. Back then we didn't have computers that all of us used the way we use now. I know that's kind of an alien concept, but back then there was a file in the middle of the Office and if you wanted to draft a bill or you didn't have anything to do you would go to that file and go through it and take a bill out. It didn't matter what the subject was, you would just do it. That was great for me way back then because I got to draft bills on everything for the first four or five years I was here. During the 1990s we figured out that was probably not the best way to run the railroad so we took the Office and roughly divided it up among the attorneys into subject matter areas based on the committee structure of the legislature. We've kind of kept that process going. We have a team that we call the business team that deals with bills on occupational regulation and insurance regulation and that kind of stuff. There's a civil and criminal law team and that includes human services so they do those kind of bills. Then we have a government team that does pretty much everything on government organization and those kind of issues. Our expertise in the Office is in the legislative process and also in these subject matter

areas that the various attorneys draft in. I know I became an expert. I can still find the statutes on various things that I used to work on and I mainly drafted bills in the business area from the 1990s onward. Before that I kind of did a little bit of everything.

Another area that our Office does get into, and it's not as visible as some of these other areas, but our Office also does get into innovation issues. I know when I was there every year we would get subcommittees of our Office staff together and we'd talk about various things that would make it easier to process the drafting of the hundreds of bills that get requested every year, the thousands of amendments that the Office does to bills, and how to make that as seamless as possible. We were also always trying to stay ahead of things. If we knew that a certain technology would make something easier, we would talk about how to put that technology into play. That's not something we would always talk to the Committee about because these are very internal kinds of things. But I think that's an important aspect and for somebody who's going to become director of the Office it would be a good idea if they were aware of different computer software programs and those kind of things that are used in doing the work that the Office does because that can be very helpful. Those are the main points that I jotted down in preparation of talking to you all. You may have some specific questions for me and I am happy to try to answer anything that you want to know that I might know.

Senator Kagan said you've talked about aspects of the Office's culture and I'm wondering if you think that any of these are specific to Colorado and would not apply to other states? It sounds to me as if they are generally applicable culture aspects of any office of legislative legal services. Mr. Miller said the things I was specifically talking about are probably more general, but Colorado does have a peculiar organizational system in terms of our staff and I don't mean peculiar in a negative sense. We are one of the states that has stayed with a largely nonpartisan staffing pattern. There are many states that have gone to a pattern where they have majority staff and minority staff and it takes a lot more people when you do it that way but that works. I think in some ways some of the cultural things I was talking about are pretty unique to Colorado. We do have some surrounding states here that do have similar staff patterns to Colorado like Utah and Wyoming, although Wyoming isn't that similar just because it has a much smaller population and different kinds of issues that they deal with. I think some of this is somewhat unique. The real unique factor to Colorado is not so much the day to day administration of a staff agency, it's more things like TABOR, for example, which is unique to Colorado and I would think that whoever you put in place as the director of the Office ought to have some pretty in-depth knowledge of TABOR and TABOR is not something that you can just open a book and read and figure it out. As far as I know, no one's actually written a book on it, which

is kind of interesting. You think somebody would as long as it's been in place. What I mean is TABOR has very unique things to it and when you guys get to a point during your 120-day session where you need to do something and you need to make sure it complies with TABOR, you do need people and particularly a point person in the Office who can tell you pretty quickly whether it's okay to do that or not or whether you have a chance of resisting a court challenge.

Representative Wist said thank you for your many years of distinguished service to this institution and this state. When I entered my first session last year it was a little overwhelming although I've been practicing law for many years. You and I had the opportunity to work directly on several bills and I always found you to be extremely helpful, very professional, and very responsive and I wanted to thank you for that. I have a couple of comments that I wanted to pick up on. Obviously in your 30-plus years with the Office you had the opportunity to serve with a number of directors. I wondered if you could share with the Committee, obviously without referring to specific individuals, qualities that you thought were particularly helpful in terms of the leadership of the Office and on the other side qualities that you thought detracted from the performance of the Office. Senator Gardner said let me vault off of that. Tell us the directors you served under and with respect to Representative Wist's question, at whatever level you're comfortable, talk about varying times and qualities and so forth of those people who by knowledge all have great reputations and are fine people but different personalities. However you want to tread into that ground. Mr. Miller said I served under Doug Brown for many years. He was the director from the time I was hired until 2003. After Doug Brown there was Charlie Pike and he had been an attorney in the Office for many years and was the Revisor of Statutes. After that there was Dan Cartin so there were really only three which is kind of amazing when you think about it. In terms of their various qualities they were all very different. Mr. Brown was a very strong personality. He had very definite ideas of things that he wanted to do and he wanted the Office to do and by gosh we were going to do those things or try really hard to do them. Mr. Pike had a different personality. He wanted people to figure out how to do the job a little bit more. Mr. Brown felt that he could tell you how to do it and you better do it that way. Mr. Pike was a little more open to empowering people. I'd describe Mr. Cartin as kind of most similar to Mr. Pike if I had to actually compare these three personalities. All three of these folks were, even though they managed the Office in very different ways, in their own ways they very successful doing what they were doing. Mr. Brown had obviously been there for many years and he predated me. I think he became director around 1982. The legislature back then was a lot different than it is now on a number of different levels. You didn't have the gavel amendment for one. It was also pre term limits and the members, particularly the leadership at that time, served for many, many years. I think Carl Bledsoe served as speaker of the House of Representatives for about 15 years and Ted Strickland

during that period of time was president of the Senate and had been there for many years because he started in the 1960s as a legislator. There was turn over in the process, but because of term limits it was a quite a bit different. Now you can have 25 or 30 new members every two years. Back then you might have 10, maybe 15. It would depend on the year and what was going on politically and all of that. The main quality I think you have to have to be director is a lot of patience. To be honest that's one of the reasons I decided about seven or eight years ago that I didn't want to be director of the Office. I had worked in the Office for a number of years and for a really long time I had wanted to be director of the Office, but the more I experienced life it occurred to me that that wasn't really going to be a good fit for me because of my personality and everything else. I think I'm patient to the rest of the world, at least I seem as though I'm patient, but my personality really is impatient which ends up not being the best quality for being a director because you have to be willing to understand that the legislative process is its own operation and as a nonpartisan staff person you really don't have control over that. You don't have control over whether there are enough votes to pass something or not pass it as well as the difficulties in getting the policy discussions accomplished, which are very important. I would say patience and also the ability to lead 45 very intelligent folks, lawyers and nonlawyers. You've got to be able to corral all of these people. You've got to inspire them to want to do the job and do it well and then you've got to be able to make sure that's happening and that takes a lot of energy to do.

Representative Wist said I wanted to pick up on your point with respect to innovation and one of the things that we struggle with in the private practice of law is trying to be efficient for our clients, not reinventing the wheel every time we're writing a brief or a memo. I was wondering if you could share with us on the innovation side the progress of the Office on knowledge management, having the ability to build a database of work product from past years, and how effective we're being in the Office and share with us your thoughts if you have any in terms of what expectations you have for a director leading us in terms of knowledge management? Mr. Miller said that's a really good question. The Office, and this is going to sound amazing, but the reality is they have records of everything they have done going back to the beginning of Colorado that they can get access to. All of the bills and amendments that you see magically appear, it's really not magical. There are all sorts of forms that are computerized that folks in the Office are using to be able to do that work as quickly as they do. The institutional memory in the Office right now is really at a pretty amazing level. I bet there's not a whole lot that the members could throw at the Office that the Office could not figure out how to do very quickly right now. One of the things, and I don't say this to be insulting, but legislative issues are usually not completely novel. The approach at the moment might be somewhat different, but the issue has been out there before and usually someone in the Office knows how we dealt with that

before, knows which statutes were being changed or created, and is able to really get on top of it very quickly. I think it is important for a person who's going to be the director of that Office to be able to have a handle on all of that because all the directors that I served under did. I'm not trying to say don't ever bring anyone in who has not been there, but I think having a handle on all of that is very helpful because you know who to go to in the Office number one, which saves a lot of time and you also know roughly what it is that was done and that is very helpful. I would say as a legislature you can feel very confident that the Office has a tremendous amount of institutional knowledge of everything that's been done since the 1860s which was before statehood actually. We've got records of all of that. I think in terms of knowledge and innovation, when I first started everything wasn't computerized and you would literally have to go down into the basement of the capitol and find something, you'd have to figure out if it had been done since the 1970s, and maybe it was on a computer system somewhere. Back in the 1970s we used a main frame computer in Lakewood, Colorado, so you were going over phone lines. All of that now has been digitized and you can get to it.

Representative Herod said I also want to thank you for coming and sharing your experience. I've appreciated the conversation around the external face of the director, especially when dealing with legislators, the press, and the public. I'm more also curious about the internal face. What are the qualities of a manager that you think are necessary for managing the internal staff of the Office and can you talk about some of the skill sets that we should be looking for in the interview process? Mr. Miller said I think the person needs, number one, to be open to new ideas. I think the Office has as I said a minute ago some of the most intelligent people that I've ever worked with and what goes with intelligence is the fact that you have lots of ideas and you want to share them and you probably want to implement those ideas on some level. The director has to be able to listen to all of that and figure out what actually is possible and what actually might be detrimental to the Office because sometimes you think it's a great idea but there could be 10 different reasons why it's not such a good idea really. You have to be open. And in terms of dealing with the press, I think that goes back to some of the other values I talked about earlier in terms of nonpartisanship. We became experts in the Office at not dealing with the press. I don't know if you all are aware of that but the Office does not routinely talk to the press, it's just something we don't do, but the director does on occasion because the press thinks the director has all sorts of information that the director can share and the directors have to figure out how to do that. They have to be able to understand what their role is in the process and how to negotiate through that because the press is really good at getting information. The person has to be good at that but in a different way from the PR people that work for your caucuses, for example, because those people actually have a mission of trying to get information to the press and the Office is kind of trying to do the opposite because of our confidentiality rules and the

nonpartisan rule and all of that. Representative Herod said just to drill down a little bit more, and I'll just give you my perspective, being a nonattorney often finding myself in a sea of attorneys it strikes me that attorneys are not always easy to manage and I know there are a few different styles of attorneys as illustrated here in this Committee, so my question is what are the skills that we are looking for? We could find a good attorney who could be a good attorney and who could serve the Office well, but what are the skill sets to manage those other attorneys that the person will then be working with and supervising and leading? Mr. Miller said I think you need to find someone who's not just an attorney but someone who has on some level administrative experience. Some people are natural at being administrators. I know I was not. I had to do a lot of learning. I became pretty good at it over the years. Those are skills that you really have to have because you are absolutely right, attorneys are difficult to manage and they all have different styles. Even though most legislative staff people are basically introverts by nature, and that's because we're reading and writing and reacting to what we're reading and telling other people about what we're learning, I don't think you want someone who is so introverted that they can't interact on a level that makes them a successful administrator. I know that's kind of a difficult combination to find, but it's an important quality.

Senator Gardner said I have a huge amount of respect for the Office and for all of the attorneys and the culture of the office and I think it's really important, but this is my second time through the hiring process and both times I've sort of struggled with the question of culture. In my professional life I've been in some places with set cultures that could be victims of their own culture. I'll tell you if you ever spend any time at the United States Air Force Academy it's got a great culture but it has also been a victim of its own culture. Law firms are that way and the department of defense is that way and so forth. When we get to the hiring process I wonder if we're missing things and that doesn't mean that we have to hire from outside because if you do that you also risk destroying a very good culture. In the context of all of that, after 30 years and walking away, search for me and tell me what you would have changed looking back, what was it that you would never change, and something you wish would have gotten done that just never got done or everybody talked about doing and knew it should have been done but it just couldn't happen? Be a critic of your culture if you could. You sang the praises and I agree with all of them and I am a fan of the Office, but what isn't right about it that ought to be? Mr. Miller said I benefitted tremendously from working at the Office. I wouldn't be able to do what I'm doing today if I had not worked where I did for as long as I did. In terms of criticism of the culture, and let me say this the best way I can, there are times and I think any government agency in a way is guilty of this, but there is an inertia toward not changing anything because it seems to be working and I think you do need to be careful of that. Fortunately for me during my time with the Office there was never a danger

of us becoming a victim of that culture that we had. But there are challenges that the Office has to face. The Office publishes the red books, the Colorado Revised Statutes, and that is a process that frankly hasn't changed a whole lot since I started with the Office. It has changed in the sense that it's computerized and that kind of thing, but the basic fact is there is still a lot of human involvement and I always thought when I was with the Office that there had to be some better ways that we could get some economies of time and people in doing that. I'm not sure what they are. I know there are a group of folks meeting down in the Office now that are working with the IT folks across the street to try to see what can be done with that but I just think with book publishing the way it's done today it's one of those things where logic just tells you there's got to be a better way. I'm not an expert, I don't know what it is, but there's got to be a better way. I don't know that they are continuing to do this the same way as a cultural issue. I think it's because it's really difficult to figure out a better way because other states are essentially doing what we do and the big legal companies are doing what we do so we're going to be really out there once we figure out what we're going to do. But I think it's something to look at. I know one of the logical questions with this is can't you just contract it out and hire a company. They actually tried to do that before Ms. Haskins and I started working with the Office they had a private legal publishing company doing part of the work on the statutes, they were doing the annotations and all of that, and it just didn't work. The annotations were not done well and the lawyers were unhappy and the public was unhappy so it was one of those things where it didn't work but I think this can be better. Senator Gardner said I think our Revisor of Statutes, Ms. Gilroy, has done a great job on that, but that is one that I've always been concerned with. But there is something about how all of that technology is changing.

Senator Kagan said I'd like to ask you a question about the matter of external hire versus internal hire and I know that in the executive department on the executive branch they are very used to new leadership coming in, sometimes from outside the department and sometimes from outside the state, and they seem to adapt pretty quickly. My instinct is that that would not work as well in the Office and that it might be very difficult for somebody who is an external hire to effectively lead and to have the confidence and respect of the Office if they had not previously worked in the Office and were an external hire. I'm wondering whether you agree with that? Mr. Miller said I have to admit that I am from a biased position on the issue because I was with the Office for so long. I agree with your proposition. I think it would be difficult. I don't agree that it would be impossible. As I talked about, the people in the Office are extremely intelligent, they are professional, and I have no doubts that they would figure out how to make a situation work if the best person that you talked to happens to be somebody who doesn't work there now. I don't think the world would come to an end. I think there are a number of unique factors to Colorado and our legislative

process that would make it more helpful if someone did have experience with the legislative process, TABOR and state finances, and knew how the legislative staff functions. As the director you are interacting with the heads of the other staff agencies, the state auditor and the director of the legislative council staff, and for someone coming from outside that's going to take a ramp up period and that'll effect how that all works out. Senator Kagan said what do you think about the question of legitimacy and respect for the authority of the person coming in? My concern is that if I were in the Office and somebody came in who needed the ramp up period, I would have trouble respecting their authority and considering them legitimate as able to lead the Office when all of us in the Office know so much more about the Office then they do and that would perhaps, and I'm wondering if you agree with this, create a real serious problem of legitimacy of authority of the new director? Mr. Miller said I would like to believe that the attorneys and the nonattorney staff in the Office are professional enough to where what you're describing would not be as direct an issue. The Office does have a tremendous experience level. There are very few attorneys in there who are new attorneys just out of law school. In fact, many of them have been there for a number of years and I think there could be some kind of a reaction along those lines. I would hope there wouldn't be because I think that everybody would have to realize that they're all in this together and they have to get the job done. I think what you're describing could be a realistic scenario. I would hope it's not but it could be.

Representative Wist said just one quick question and this is prompted by Senator Kagan's question. Whenever you have an institution that seems to be functioning effectively there is this general inclination to continue to go down that path because if it's not broke, don't fix it. On the other hand, I think there's a desire in any organization to continue to get better and to be innovative and to make sure you're thinking outside the box and thinking about things in new ways. There are different ways to achieve that. You can do that by bringing in leadership from the outside, but in my experience in business you can also do that by bringing folks in on a consulting basis to look at your organization and to give you feedback. In your 30 plus years in the organization were there consultants that were brought in? Could we benefit from an outside look from folks while not selecting a director from outside, but getting an outside perspective on the operation of the Office? Mr. Miller said I think that's a very good point. In the time I was with the Office we didn't have people come in in the traditional consultant role. We did have directors talk to people outside the Office and get impressions of how things could work differently. I know Mr. Brown used to do that quite a bit because he had national contacts in other staff agencies and I know that was something that he did try to do. In fact, I think a lot of the ideas he brought in were ideas that he had gotten from other places. Ms. Haskins said if I might interject, the Office has sent several of the attorneys to the legislative staff management institute. There

has been a lot of effort in bringing people along and giving them opportunities for specific management training. We also had a special management training on communication. It was a program where an outside consultant came in and taught this program to a group of us from different parts of the Office, not just the attorneys. It was a 10 week course on management and communication and time management. That was done a couple of times. The Office has done some very specific, strategic training in that regard.

Representative Herod said the other question I have is along the lines of the diversity of the Office. You served in the Office for a while and as you know, the Office is not as diverse racially, though I think we've gotten much better with gender diversity in the Office which is great. Looking to this new director, do you have any thoughts or ideas about what could work to make the Office more diverse and have you tried anything to increase diversity and what hasn't worked? Mr. Miller said that was always a concern of mine when I was in the Office. The Office has 45 people and the state never looked at us as a component and said you guys need to increase your diversity or that kind of thing. Over the years the Office has become more diverse since I started, sizably in a number of different ways. When I first started most of the upper management were men which is not true now; a lot of them are female. We do have a number of people of color in the Office and gender diversity is there as well. I think there's a number of things you can do. We have people every year who participate in the University of Denver's career fair and the University of Colorado does the same thing and we pretty routinely send people there, not to try to recruit but to make ourselves known, that we're out there, and when we have vacancies we can get people to apply, so those type of outreach things in the community. As I was leaving the Office we decided we weren't going to have an outreach committee anymore, but we do have a group that keeps their eye on community activities where folks from the Office can be of service, explaining how the legislature works, and that kind of thing. That tends to attract people to legislative service that you would not get otherwise and I think that's an important way to get new people and different types of people interested in the process. But yeah, your concerns were some of my concerns over the years. Representative Herod said to follow up on the retention of diverse staff, have you seen that be an issue or are retention rates pretty similar regardless of ethnicity, race, or gender? Mr. Miller said over the years I have found that the retention of good employees doesn't really depend on race or any of these protected class issues; it's more the goals and aspirations of the people themselves and what they want to do. I can't really think of a situation in the Office where we lost someone who is of a protected class that we didn't want to lose. For the most part people have just moved on for one reason or another. At this point the retention is pretty good and you can't get much better when the newest people have been there for seven or eight years. Representative Herod said I'm not trying to say that there's any discrimination or any

wrongdoing happening within the Office at all. I don't believe that is the case. But I do wonder if there were issues around retention, folks were moving on quicker, because of any type of other issues and if there's any way to make sure diverse candidates stay and are able to move up the ranks. We can have the conversation offline, but just to be clear I'm not trying to demonstrate any type of discrimination or issues within the Office. I think you guys obviously operate with a high amount of respect for all of your staff and I appreciate that.

Senator Gardner said I just had an observation about the Office's very high retention rates and what is really in some sense a relatively small office. It's a large group of attorneys but nevertheless it makes it difficult to begin to change the diversity of the Office in a way. It is going to be some thought of mine in interviewing as to how you deal with 1) retention, which is very important because as you say the institutional knowledge matters and at the same time 2) trying to create a diverse staff. Mr. Miller said the only thing I would add to that is that the retention rate in the Office has not always been what it is now. When I first started with the Office there was a quite high turnover rate. There were attorneys who would stay there for a year and then they'd leave. Senator Gardner said why was that? Mr. Miller said it was a different time. I've thought about that, what's the difference between now and then and I think in the 1990s and early 2000s a number of us in the Office made it a point when we were interviewing people to figure out how to illicit information about whether people really wanted to work in the legislative environment. We got pretty good at figuring that out. I don't think they were as good at it when I first started with the Office. I think they were using different metrics of trying to attract people to the employment. Frankly on a number of levels it kind of didn't work very well in that period of time. Now it's working fairly well.

11:03 a.m. – The Committee addressed agenda item 3 – Executive Session.

Senator Gardner said the next item on the agenda is an executive session on the advice of legal counsel from the Office. The Committee on Legal Services Subcommittee on the Executive Director search will go into executive session pursuant to section 24-6-402 (3)(b), C.R.S., to discuss personnel matters, the search process for the appointment of the Director of the Office of Legislative Legal Services, and review resumes of applicants for the position of Director of the Office of Legislative Legal Services.

11:07 a.m.

Representative Wist moved that the Committee on Legal Services Subcommittee on the OLLS Director Search meet in executive session in accordance with section 24-6-402 (3)(b), C.R.S., for the purpose of discussing the search process

for the appointment of the Director of the Office of Legislative Legal Services and to review resumes of applicants for the position of Director of the Office of Legislative Legal Services. The motion passed on a vote of 4-0 with Representative Herod, Senator Kagan, Representative Wist, and Senator Gardner voting yes. The Committee went into Executive Session.

12:35 p.m.

The Committee returned from executive session. Senator Gardner said following up on our executive session we did review 14 resumes. There was a discussion amongst the Committee on how many of those and which of those we might forward for further consideration to the full Committee on Legal Services. Senator Kagan moved that we forward for consideration to the full Committee on Legal Services resumes for consideration of applicants 3, 10, 11, 12, 13, and 14. The motion passed on a vote of 4-0 with Representative Herod, Senator Kagan, Representative Wist, and Senator Gardner voting yes.

12:38 p.m. – The Committee addressed agenda item 4 – Discuss plan for interviews by the Committee on Legal Services on August 25.

12:40 p.m.

The Committee adjourned.